

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

‘O’

Case No.	2:22-CV-08395-CAS (MAAx)	Date	February 27, 2023
Title	LESLIE LILIEN V. OLAPLEX HOLDINGS, INC., ET AL		

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) - MOTIONS FOR APPOINTMENT OF COUNSEL AND LEAD PLAINTIFF (Dkts. 23, 25, 32, 35, 38, filed on JANUARY 17, 2023)

The Court finds that the motions for appointment of lead plaintiff and approval of lead counsel are appropriate for decision without oral argument. See Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15. Accordingly, the matter is hereby taken under submission.

On November 17, 2022, plaintiff Leslie Lilien filed this proposed class action on behalf of others similarly situated against defendants Olaplex Holdings, Inc. (“Olaplex”); Jue Wong; Eric Tiziani; Tiffany Walden; Christine Dagousset; Tricia Glynn; Deirdre Findlay; Janet Gurwitch; Martha Morfitt; David Mussafer; Emily White; Michael White; and Paula Zusi. Dkt 1 (“Compl.”). The proposed class comprises all persons other than defendants who purchased or otherwise acquired Olaplex common stock in its initial public offering (“IPO”) or purchased Olaplex common stock thereafter in the stock market pursuant and/or traceable to Olaplex’s offering documents issued in connection with the IPO and who were damaged thereby. Id. ¶ 51. Olaplex is a Delaware corporation with headquarters in California that manufactures and sells hair care products. Id. ¶¶ 2, 18. The individual defendants are or formerly served as officers and/or directors of Olaplex. Id. ¶¶ 19-30. Plaintiff brings two claims on behalf of the proposed class: (1) violations of Section 11 of the Securities Act of 1933 (the “Securities Act”), 15 U.S.C. § 77k, as against all defendants, and (2) violations of Section 15 of the Securities Act, 15 U.S.C. § 77o, as against the individual defendants. Id. ¶¶ 58-71.

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On January 17, 2023, motions for appointment of lead plaintiff and for approval of their selection of counsel as lead counsel were filed by five plaintiffs, Sara Wilson, Arkansas Teacher Retirement System (“ATRS”), Afshin Misaghi, David O’Neil, and Leslie Lilien, pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(a)(3)(b). Dkts. 23, 25, 32, 35, 38. Wilson, Misaghi, and Lilien subsequently filed notices of non-opposition to the competing motions for appointment as lead plaintiff and approval of counsel or withdrew their motions. Dkts. 50, 51, 55.

On February 6, 2023, ATRS filed a memorandum in further support of its motion for appointment as lead plaintiff. Dkt. 52. ATRS states that it lost \$3,281,695.65, calculated using a last-in-first-out methodology, as a result of defendants’ misconduct. Dkt. 26 at 4. ATRS further states that it has selected and retained Labaton Sucharow as its proposed lead counsel for the class and Glancy Prongay & Murray LLP as its proposed liaison counsel for the class. *Id.* at 5. On February 6, 2023, O’Neil filed an opposition to ATRS’s motion, contending that he sustained losses of \$264,770 as a result of defendants’ misconduct. Dkt. 53. O’Neil’s opposition urges the Court to calculate the proposed lead plaintiffs’ financial interest using a percentage loss methodology and to appoint him as co-lead plaintiff, alongside ATRS. *Id.* On February 13, 2023, ATRS filed a reply in support of its motion. Dkt. 54.

On February 24, 2023, the Court distributed a tentative ruling appointing ATRS as lead plaintiff and approving of ATRS’s selection of Labaton Sucharow as lead counsel and Glancy Prongay & Murray LLP as liaison counsel. Therein the Court reasoned that ATRS should be lead plaintiff based on the fact that its losses approximated \$3,281,695.65, far more than the losses sustained by O’Neil. *See Z-Seven Fund, Inc. v. Motorcar Parts & Accessories*, 231 F.3d 1215, 1217–18 (9th Cir. 2000) (explaining that, in appointing a lead plaintiff, “the court is to apply a rebuttable presumption that the most adequate plaintiff is the applicant who [1] has the largest financial interest in the relief sought and [2] otherwise meets the requirements of Rule 23 of the Federal Rules of Civil Procedure”).

Thereafter, counsel for O’Neil withdrew his motion for appointment as lead plaintiff and for approval of lead counsel. Dkt. 57. Accordingly, ATRS is the sole remaining proposed lead plaintiff, and the hearing on the competing motions was vacated. Dkt. 58.

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In accordance with the foregoing, the Court **GRANTS** ATRS’s motion for appointment as lead plaintiff and for approval of Labaton Sucharow and Glancy Prongay & Murray LLP, respectively, as lead counsel and liaison counsel.

IT IS SO ORDERED.

Initials of Preparer 00 : 00
CMJ